

EXHIBIT D



**PROMISE TO CONSTITUTE A TRUST AGREEMENT
CASITA LOT PHASE 2 #25**

THIS CONTRACT, A "PROMISE TO CONSTITUTE A TRUST AGREEMENT" (HEREINAFTER REFERRED TO AS THE "AGREEMENT AND/OR CONTRACT") IS ENTERED INTO BY AND BETWEEN DIAMANTE CABO SAN LUCAS, S. DE R.L. DE C.V. (HEREINAFTER REFERRED TO AS "DIAMANTE" AND/OR "SELLER"), REPRESENTED HEREIN BY MR. KENNETH A. JOWDY OR MR. TAFFY JOWDY IN THEIR CAPACITY AS ATTORNEYS IN FACT, AND GREGORY ALAN CARRAFIELLO AND ANA ALEJANDRA GUTIERREZ FLORES (HEREINAFTER REFERRED TO AS THE "PURCHASERS"), IN ACCORDANCE WITH THE FOLLOWING ANTECEDENTS, DECLARATIONS AND CLAUSES:

BACKGROUND

- I. Constitution of the Trading Company called Diamante Cabo San Lucas by means of deed number 64,865 [sixty-four thousand eight hundred sixty-five] volume 1,025 [one thousand twenty-five] duly executed before Mr. José Alberto Castro Salazar, Notary Public Number 7 [Seven] in the Municipality of Los Cabos, Baja California Sur, Mexico, Public Assigned to Number 7 [Seven] of the State and Federal Heritage Property with exercise in the municipalities of La Paz and Los Cabos and living in the state Capital, it is duly registered in the Public Registry of Commerce of San Jose del Cabo, under the 9065 Electronic Mercantile Folio (nine zero six five).
- II. By means of Public instrument number 65,036, volume 1,026, dated March 10, [Ten] 2006, [Two thousand and six] duly executed before Mr. Jose Alberto Castro Salazar, Notary Public number 7 [Seven], in the Municipality of Los Cabos, Baja California Sur, Mexico, under number 58, First section, volume CCXLII dated on April 18 [Eighteen], 2006, [Two thousand and six] **DIAMANTE** acquired eight (8) lots of the real property known as LA LAGUNA, of the portion known as Rancho El Cardonal, Cabo San Lucas, Municipality of Los Cabos, Baja California Sur, Mexico ("Real Properties").
- III. By means of official deed number 65,041 dated March 10 [Ten] 2006 [Two thousand and six] duly executed before Mr. José Alberto Castro Salazar, Notary Public, Notary Assigned to Number 7 [Seven] of the State and Federal Heritage Property with exercise in the municipalities of La Paz and Los Cabos, and registered at the Public Registry of Property and Commerce of San Jose del Cabo as number 135 [One hundred thirty-five], foja 135 [One hundred thirty-five] CCXLV volume, of May 8 [Eight] 2006 [Two thousand and six] in which consists IRREVOCABLE TRUST AGREEMENT transferring ownership WARRANTY F/00321 identified by the number entered into between (i) DIAMANTE CABO SAN LUCAS S. DE R.L. DE C.V. as (Fideicomitente) and Beneficiary in Second Place, (ii) DANSKE BANK A/S, LONDON BRANCH, INCORPORATED IN THE KINGDOM OF DENMARK, as successor to Lehman Brothers Holdings Inc. as



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Beneficiary in First Place, and (iii) CI BANCO, S.A., INSTITUCION DE BANCA MULTIPLE (before THE BANK OF THE NEW YORK MELLON CORPORATION, MULTIPLE BANKING INSTITUTION successor UNIVERSAL BANK FINAL JP MORGAN , SOCIETY ANOMINA, MULTIPLE BANKING INSTITUTION, FINANCIAL GROUP JP MORGAN, TRUSTEE DIVISION) as Trustee.

- IV. By means of official deed number 78,882 [seventy-eight thousand, eight hundred eighty-two], volume 1,292 [one thousand, two hundred ninety-two] dated March 6 [Six] 2009 [Two thousand, nine] duly executed before Mr. José Alberto Castro of Salazar, Notary Public, Notary Assigned to the number 7 [Seven] of the Federal Property and Heritage, exercise in the municipalities of La Paz and Los Cabos and living in the state capital, owned Héctor Castro Castro duly registered with the Public Registry of Property and Commerce of the Municipality of Los Cabos with number 135 [One hundred thirty-five] hander 135 [one hundred thirty-five] CCXLV volume [Two hundred forty-five Roman] of April 13 [Thirteen] 2009 [Two thousand, nine], entered into an AGREEMENT AMENDMENT AND RESTATEMENT TO THE TRUST AGREEMENT AND IRREVOCABLE TRUST transferring ownership WARRANTY F/00321 identified by the number which was attended by (i) Settlor and Trustee Diamante as second beneficiary; (ii) Danske Bank A / S, London Branch, London Branch of a company incorporated in the Kingdom of Denmark as Trustee in the first place replacing Lehman Brothers Holdings, Inc. as first place beneficiary, and (iii) CI BANCO, S.A., INSTITUCION DE BANCA MULTIPLE (before THE BANK OF THE NEW YORK MELLON CORPORATION, MULTIPLE BANKING INSTITUTION successor UNIVERSAL BANK FINAL JP MORGAN , SOCIETY ANOMINA, MULTIPLE BANKING INSTITUTION, FINANCIAL GROUP JP MORGAN , TRUSTEE DIVISION) as Trustee of the Trust referred to with number F/00321 [hereinafter the "Agreement Amending the Trust"].
- V. RELOTIFICACION/003/PU/2007, issued by the Direction of General Planning, Urban Development and Ecology of the Municipality of Los Cabos, Baja California Sur, Mexico the subdivision "relotificación" of the Real Properties was authorized as follows (i) lot 1 with a surface of 193-31-10.247 hectares ("Lot 1"), (ii) lot 2 with a surface of 84-72-79.408 hectares ("Lot 2"), (iii) lot 3 with a surface of 175-64-83.912 hectares ("Lot 3"), (iv) lot 4 with a surface of 115-47-94.117 hectares; (v) lot 5 with a surface of 5-83-59.077 hectares; and (vi) lot 6 with a surface of 28-98-10.86, as evidence in Public Deed Number 81,161 Volume 1341 dated October 26, 2009, duly executed before Mr. Jose Alberto Castro Salazar, Notary Public number 7 for the Municipality of Los Cabos, Baja California Sur, Mexico, and duly recorded under marginal note number 135, First section, volume CCXLV dated May 8, 2006, on November 5, 2009.
- VI. By means of official deed number 82,871 [eighty-two thousand eight hundred seventy-one] of 1,376 volumes in 1376, dated May 18 [Eighteen] 2010, [Two Thousand Ten], duly executed before of Mr. Jose Alberto Salazar Castro Notary Public Notary attached to the Post No. 7 [seven], the State and Federal Heritage Property, practicing in the State of Baja California Sur, and registered in the Public Registry of Property and Commerce of San Jose del Cabo, Baja California Sur, under the number 127 percent twenty-seven, 127 hander one hundred twenty-seven, volume CDXXXVIII, of Section One of this twentieth day and one (21st) of May, 2010 [Two Thousand and Ten], held CONSTITUTION OF CONDOMINIUM PROPERTY REGIME OF MASTER called "DIAMANTE CABO SAN LUCAS" Premises located in the La Laguna, Rancho El





Cardonal, Poligono 03, located in Cabo San Lucas, Baja California Sur, you 175-64-83.912 surface with cadastral number 4-02-013-0083 key that performs CI BANCO, S.A., INSTITUCION DE BANCA MULTIPLE (before THE BANK OF THE NEW YORK MELLON CORPORATION, MULTIPLE BANKING INSTITUTION successor UNIVERSAL BANK FINAL JP MORGAN , SOCIETY ANOMINA, MULTIPLE BANKING INSTITUTION, FINANCIAL GROUP JP MORGAN , TRUST DIVISION) IN THE NATURE OF THE TRUST F/00321, REPRESENTED BY ITS DIAMANTE SOCIETY SPECIAL AGENT CABO SAN LUCAS, LIMITED LIABILITY COMPANY CAPITAL VARIABLE who appeared THROUGH HIS GUARDIAN Mr. Fernando Manuel GARCÍA CAMPUZANO with the appearance of the company named DIAMANTE CABO SAN LUCAS, LIMITED LIABILITY COMPANY CAPITAL VARIABLE. Within the MASTER CONDOMINIUM called "DIAMANTE CABO SAN LUCAS", there is the SUB- CONDOMINIUM REGIME 4 "THE ESTATES" identified key 402093001001-004001 cadastral code, with a total area of 423,328.758 m2.

VII. By means of official deed number 91,326 [ninety-one thousand, three hundred twenty-six], volume 1,536 [one thousand, five hundred thirty-six] dated 26 [Twenty-six] April 2013 [Two thousand, thirteen] duly executed before Mr. José Alberto Castro of Salazar, Notary Public, Notary Assigned to the number 7 [seven] of the Federal Property and Heritage, exercise in the municipalities of La Paz and Los Cabos and living in the state capital, owned Héctor Castro Castro duly registered with the Public Registry of Property and Commerce of the Municipality of Los Cabos executed a **SECOND AGREEMENT AMENDMENT TO THE IRREVOCABLE TRUST AGREEMENT F/00321 AND AGREEMENT AMENDMENT AND RESTATEMENT TO THE TRUST AGREEMENT AND IRREVOCABLE TRUST** which entered into (i) Settlor and Trustee DIAMANTE as second beneficiary; (ii) DANSKE BANK A / S, LONDON BRANCH, LONDON BRANCH OF A COMPANY INCORPORATED IN THE KINGDOM OF DENMARK as Trustee in the first place replacing Lehman Brothers Holdings, Inc. as first place beneficiary, and (iii) CI BANCO, S.A., INSTITUCION DE BANCA MULTIPLE (before THE BANK OF THE NEW YORK MELLON CORPORATION, MULTIPLE BANKING INSTITUTION successor UNIVERSAL BANK FINAL JP MORGAN , SOCIETY ANOMINA, MULTIPLE BANKING INSTITUTION, FINANCIAL GROUP JP MORGAN , TRUSTEE DIVISION) as Trustee of the Trust referred to with number F/00321 (hereinafter the "Second Agreement Amending the Trust").



VIII. By means of official deed 111,339 [One hundred eleven thousand, three hundred and thirty nine] dated April 23 [Twenty three], 2014 [Two thousand fourteen], duly executed before of Mr. Armando Mastachi Aguario, public notary number 21 [Twenty one] of Mexico, Federal District The merge between THE BANK OF NEW YORK MELLON, S.A. INSTITUCION DE BANCA MULTIPLE as the fused corporation and CI BANCO, S.A., INSTITUCION DE BANCA MULTIPLE as the merging corporation, and the change of name as agreed in proceedings of General special meetings of shareholders.

DECLARATIONS

I. DIAMANTE THROUGH ITS LEGAL REPRESENTATIVES DECLARES:

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- A. That **DIAMANTE** is a duly incorporated and validly existing company pursuant to the laws of the United Mexican States ("Mexico"), as evidenced in public instrument number 64,862, Volume 1,025, dated on February 23, 2006, duly recorded in the Public Registry of Property and Commerce of San Jose del Cabo, Municipality of Los Cabos, Baja California Sur, Mexico, under electronic number 9065.
- B. That Mr. Kenneth A. Jowdy has authority to execute this Contract, as evidenced in public instrument 65,011 Volume 1,026 dated March 9, 2006 duly recorded in the Public Registry of Property and Commerce of San Jose del Cabo, Municipality of Los Cabos, Baja California Sur, Mexico, under electronic number 9065, of April 5, 2006, and that as of this date, said authority has not been modified, revoked or diminished in any way whatsoever.
- C. That Mr. Taffy Jowdy has the authority to execute this Contract, as evidenced in public instrument number 11,562 Volume 475 dated March 28, 2014, granted before Fernando Gonzalez Rubio public notary 14 of Los Cabos, Baja California Sur, Mexico, duly recorded in the Public Registry of Property and Commerce of San Jose del Cabo, Municipality of Los Cabos, Baja California Sur, Mexico on June 10, 2014 under electronic number 9065*4, and that as of this date, said authority has not been modified, revoked or diminished in any way whatsoever.
- D. That **DIAMANTE** has formalized a master condominium regime that is located within Lot 3 and that said master condominium regime has been named "**DIAMANTE** Development Condominium" (hereinafter referred to as the "Master Condominium") whereby the location, metes, bounds and legal description of the **Master Condominium** are more particularly described in **Exhibit I**.
- E. That **DIAMANTE** is in the process of incorporating as a sub-condominium regime THE **ESTATES** within a section of the **Master Condominium**, to be known as the "**Casitas Condominium**" and which will include private areas for common use and private units for special use.
- F. That within or adjacent to the **Master Condominium** there are several private property sections ("Master Sections"), and that, in the sole and exclusive discretion of **DIAMANTE**, these Master Sections, or any of them, may be incorporated into one or more sub-condominium regimes in one or more phases from time to time, for residential uses and/or to provide hotel or other commercial uses and services.
- G. That the construction within the **Casitas Condominium** as well as in the **Master Condominium** will be carried out from time to time in one or more phases.
- H. That the **Casitas Condominium** will have its own Casitas regulations (herein referred to as "Casitas Regulations" or "Casitas Rules and Regulations") and at the same time the Casitas will always be subject to the regulations of the **Master Condominium** (herein "Master Regulations" or "Master Rules and Regulations"). The initial draft of the Casitas Rules and Regulations may be amended from time to time, in the sole discretion of **DIAMANTE**, until the Rules and Regulations for the **Casitas** is duly formalized and filed with the Public Registry of Property and Commerce of Los Cabos, Baja California Sur.



- I. That the **Casitas Condominium** includes approximately Sixty-three (63) Casitas for residential use. Within the documents of the **Master Condominium** and the **Casitas Condominiums**, as well as in the present Contract, the Casita Lot located within the **Casitas Condominium** to be purchased hereunder shall be known as a "**Casita Lot Phase 2 Lot No. 25**" or the "**Lot**". The Lot shall be treated as one single Lot for purposes of HOA fees and any other charges assessed on a per unit basis.
- J. That **Casita Lot Phase 2 No. 25**, the Casita Lot that is the subject of this Contract consists of total surface of 960.13 m² (Nine Hundred and Sixty point Thirteen square meters). The location, metes, bounds and the legal description of **Casita Lot Phase 2 No. 25** are set forth in **Exhibit "II"** which are attached hereto.
- K. That **DIAMANTE** has obligated itself by participating in the execution of a trust agreement by means of which the **Casita** and the corresponding rights of co-ownership with respect to the common areas of the **Casitas Condominium** and the **Master Condominium** have been transferred, subject to and in accordance with the terms of this Contract.
- L. That the **PURCHASERS** and **DIAMANTE** agree that **Casita Lot Phase 2 No. 25** has been destined exclusively for construction of a single-family residence and is part of **Casitas Condominium** and is subject to the **Casitas Rules and Regulations** and the **Master Rules and Regulations**.

II. THE PURCHASER DECLARES:

- A. That one of the **PURCHASERS** is a US Citizen and both of the **PURCHASERS** have the legal authority and economic capacity to enter into and be bound by the terms and conditions of this Agreement and that **PURCHASERS'** interest in the **Casita** will be as a beneficiary through a Fideicomiso Trust as herein defined.
- B. That **PURCHASERS** recognize and state that **PURCHASERS** are aware that the **Master Condominium** and the **Casitas Condominium** will be administered, maintained and operated by an administrator designated exclusively by **DIAMANTE** for the first ten (10) years of operation.
- C. That the duties and responsibilities of the administrator of the **Master Condominium** and of the **Casitas Condominium** (herein the "**Administrator**") have been established pursuant to the **Casitas Rules and Regulations** and **Master Rules and Regulations**.
- D. That **PURCHASERS** know the location, plans and specific characteristics of the **Casita Lot** and agrees and hereby acknowledge that the **Casita Lot** and the **PURCHASERS** will be subject to the **Casitas Rules and Regulations** and the **Master Rules and Regulations**, as amended from time to time.

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- E. That **PURCHASERS** know the amounts of the Deposits (as defined herein), the Purchase Price, and the other conditions as established in this Contract.
- F. That **PURCHASERS** are qualified financially and have the economic capacity to perform the obligations undertaken pursuant to this Contract and the Mexican Trust (as defined herein). The **PURCHASERS** hereby certify that **PURCHASERS** are individuals whose net worth (i.e., the excess of total assets at fair market value, including home and personal property, over liabilities), or joint net worth with his or her spouse, exceeds One Million Dollars, currency of the United States of America (\$1,000,000.00USD).
- G. That **PURCHASERS** are obligated to enter into a Mexican Trust Agreement also known as a Fideicomiso (as defined herein) or to formalize a Mexican Title with **DIAMANTE** in order to acquire the Lot according to Mexican law.

In consideration of the foregoing Antecedents and Declarations, the parties agree to the following:

CLAUSES

First. Purpose of the Contract

- 1.1 Conditions of Trust. Subject to the terms and conditions of this Contract, **DIAMANTE** hereby promises to execute either a Mexican Title or a Mexican Trust contract (hereinafter "**Trust**") with a Mexican multiple banking institution appointed by **PURCHASERS** with the purposes established in section 3.4, whereby **DIAMANTE** will transfer the beneficial rights of the **Casita Lot**, that by fact and by law corresponds to it and whereby the **PURCHASERS** or whomever they appoint prior to closing, will be designated as the beneficiary. The **Trust** or the Mexican Title will be formalized through a public instrument duly executed before a Mexican notary public designated by **PURCHASERS** on the closing date which closing date the parties hereto agree shall in no event be more than forty-five (45) business days of the last to occur when the **Casitas Condominium** infrastructure has been substantially completed and functional to allow access to and use of the **Casita Lot** ("**Infrastructure Completion**". Additionally, and as a condition to transfer the "**Lot**" and create the **Trust** or the **Mexican Title**, the **PURCHASERS** must have delivered to **DIAMANTE** (as defined herein) the entire balance of the **Deposits** (as defined herein) at least forty-five (45) business days prior to the Closing Date (as defined herein).
- 1.2 Condominium Regime. The incorporation of the **Casitas Condominium Regime** as set forth in this Contract will be formalized by **DIAMANTE** prior to Closing.
- 1.3 Infrastructure Completion Date. The completion of sufficient infrastructure to allow use and occupancy of the Lot ("**the Infrastructure Completion Date**") will take place on or before February 1, 2020. However, the **PURCHASERS** hereby grant a three (3) month grace period to **DIAMANTE** after such date to comply with the obligations described herein. For purposes of this Contract, the condition of "**Infrastructure Completion**" will be considered satisfied when **DIAMANTE** receives a letter ("**avance de obra**") from the licensed professional "**Director**"

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Responsable de Obra" who is responsible for verifying Infrastructure Completion by informing DIAMANTE that such event has taken place.

Second. Liens and Title Review

- 2.1 Title Condition. DIAMANTE warrants that on the Closing Date title to the Lot will be conveyed free and clear of all liens and encumbrances, any debt arising from public utility services, taxes and assessments as of the Closing Date and previous years. DIAMANTE further warrants all payments of real estate taxes and other public fiscal liabilities relative to the Lot will be current as of the Closing Date. Likewise, DIAMANTE promises and hereby obligates itself that on the date of transfer of the Lot, neither the Lot nor the co-ownership rights relating to the common areas that might correspond to the Lot in connection with the Master Condominium, will be subject to any mortgage or any other guarantee lien.
- 2.2 Construction Loan. DIAMANTE may subject the Lot, Casitas Condominium and the Master Condominium to a guaranty trust and/or mortgage (the "Master Guaranty") securing a construction loan for the Casitas Condominium and/or the Master Condominium (the "Construction Loan"). Provided, however that the Lot will be released from the lien of the Master Guaranty prior to Closing Date, or simultaneously with the transfer and formalization of the Trust. DIAMANTE reserves the right to assign this Contract as collateral for the Construction Loan. Any such assignment will provide that, if DIAMANTE defaults under the Construction Loan, the lender on the Construction Loan ("Lender") will be entitled, but not obligated, to expressly assume in writing DIAMANTE'S obligations hereunder. In the absence of such assumption by Lender, PURCHASERS will be entitled to the repayment of all Deposits made and any other funds delivered by PURCHASERS, upon which return this Contract will be cancelled. The Lender will not be deemed to have assumed any obligations hereunder unless and until the Lender notifies PURCHASERS in writing of such assumption. If the Lender assumes DIAMANTE'S rights, PURCHASERS will make all payments and render all acts as and performances as and when required by PURCHASERS under the terms of this Contract directly to Lender, or to its nominee as Lender may direct. By signing below, PURCHASERS consent to the assignment of this Contract for the purposes described in this Section.

Third. Essential elements of the Property Title to be created

PURCHASERS hereby agree to formalize a Property Title, either a Mexican Title or a Trust, with the understanding that said Property Title will include the following basic elements:

- 3.1 The Parties. The parties of the Property Title will be the following:
- a) **The Grantor:** Diamante Cabo San Lucas, S. de R.L. de C.V., which is known in this Contract as DIAMANTE; pursuant to the terms of Mexican Guaranty Trust Number F/00321 with the BANK OF NEW YORK MELLON, S.A. INSTITUCION DE BANCA MULTIPLE as the fused corporation and CI BANCO, S.A., INSTITUCION DE BANCA MULTIPLE as the merging corporation, acting as trustee.

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b) **The Trustee (in case of a Trust):** The Mexican multiple banking institution appointed by DIAMANTE in the Trust, subject to PURCHASERS' prior review and approval.

c) **The Beneficiary:** The PURCHASERS or whomever he appoints before closing.

- 3.2 **Purchase Price.** For the transfer of the Lot, PURCHASERS shall, pursuant to the terms of the Addendum attached hereto, pay to DIAMANTE the sum of \$225,000.00 USD (TWO HUNDRED AND TWENTY-FIVE THOUSAND AND 00/100 DOLLARS CURRENCY OF THE UNITED STATES OF AMERICA) (the "**Purchase Price**"), which Purchase Price shall include the Lot as well as the co-ownership rights with respect of the common areas of the Casitas Condominium and the Master Condominium are included in said Purchase Price in accordance with the corresponding undivided co-ownership percentage established in the Casitas Rules and Regulations and the Master Rules and Regulations, as they may be amended from time to time. PURCHASERS agree that PURCHASERS shall be solely responsible for all costs and expenses related to the construction of a home on the Lot, including but not limited to all materials and labor.
- 3.3 **Asset/Patrimony of the Trust.** The asset/patrimony of the Trust shall be the Lot, the corresponding co-ownership rights over the common areas of the Casitas Condominium and the Master Condominium, any improvements, attachments or adherences to them (hereinafter the "**Trust Asset**").
- 3.4 **Purposes of the Property Title.** The basic objectives of the Property Title will be for: (i) the acquisition by the PURCHASERS of the Lot for the maximum term established under Mexican Law, and any renewal of such term; (ii) the Trustee to own the Trust Asset in the Trust, in order to allow the PURCHASERS to use and enjoy the Trust Asset exclusively for residential uses or purposes under the terms and conditions of the Casitas Rules and Regulations); (iii) the Trustee, in accordance with the instructions delivered by the PURCHASERS to lease or grant the legal use of the Trust Asset to third parties up to the maximum term permitted under the Casitas Rules and Regulations or by law, with the PURCHASERS being entitled to receive the amount of the consideration paid under any such lease; (iv) the Trustee, pursuant to the instructions delivered by the PURCHASERS, to transfer to third parties that have the legal capacity to acquire same, all or part of the Trust Asset with the PURCHASERS being entitled to receive the net amount of the consideration paid for the Trust Asset; (v) the Trustee, in accordance with the instructions delivered by the PURCHASERS, to mortgage or encumber the Trust Asset, in any manner whatsoever, for the purpose of guaranteeing any obligations acquired by PURCHASERS; and (vi) the Trustee, after the expiration of the Trust's term, and in accordance with the written instructions delivered by the PURCHASERS to: (a) renew the foreign affairs permit to extend the Trust term, or (b) transfer the Trust Asset to any other purchaser or person designated by the PURCHASERS, provided, however, that any such other purchaser or person designated by PURCHASERS are legally entitled to acquire same and the consideration paid at the time of such sale shall be delivered to PURCHASERS.
- 3.5 **Commitments of PURCHASERS.** PURCHASERS will always be obligated and agrees to comply with each, and all provisions and obligations established in the Casitas Rules and Regulations and the Master Rules and Regulations, including paying proportional ordinary and extraordinary fees





and other charges relating to the Lot and the common areas of the Casitas Condominium and the Master Condominium.

- 3.6 **DIAMANTE Warranty.** At Closing, DIAMANTE will warrant to PURCHASERS the beneficial title rights of the Casita Lot in accordance with Mexican law.
- 3.7 **Taxes, Fees and Expenses.** The parties expressly agree that all taxes, acquisition taxes, public registry filing fee, notary public fees, appraisal fees, Trustee fees, foreign affairs Trust permit fees, governmental authorization fees, governmental filing fees and any other expenses that originate due to the formalization and recording of the Trust and or this Promise to Constitute a Trust Agreement as well as the fees originated due to the transfer of the Lot will be at the exclusive expense of the PURCHASERS, except for the income tax due up to the Closing Date which shall be the SELLER'S obligation. All of PURCHASERS' closing costs shall be paid by PURCHASERS to PURCHASERS' closing agent at the time of the payment of the Final Deposit paid by PURCHASER pursuant to the addendum attached hereto and incorporated herein by reference (the "ADDENDUM").
- 3.8 **Domiciles.** The parties establish as their mailing address for any notification relating to this Promise Agreement and the Trust the following:

DIAMANTE

Diamante Cabo San Lucas, S. de R.L. de C.V.
Boulevard Diamante Sin Numero,
Col. Los Cangrejos 1, C.P. 23473,
Cabo San Lucas, Baja California Sur, C.P., Mexico

PURCHASERS:

Gregory Alan Carrafiello
Ana Alejandra Gutierrez Flores
Blvd. Marina S/N Plaza Nautica Condo 107
Col. Centro
Cabo San Lucas B.C.S. 23450
Mexico



- 3.9 **Laws and Courts.** For all matters relating to this Contract or regarding the intent, interpretation and compliance with the Trust, the parties expressly submit themselves to the laws in force and to the jurisdiction of the courts of San Jose del Cabo, Municipality of Los Cabos, Baja California Sur, Mexico, waiving hereby any other jurisdiction that could correspond to them as a result of their present or future domicile, or for any other reason.
- 3.10 **Other Clauses.** The parties may agree to other clauses in the Trust, respecting at all times the content of this Contract. Otherwise, the Trust will only be granted with the clauses contained in this Contract and those clauses required by the Trustee which do not contravene this Contract. The parties will submit at all times to the applicable legal provisions that in each case may apply to the Trust.



Fourth. Deposit

- 4.1 The PURCHASERS agree to pay the deposits required to be paid pursuant to the terms of the **Addendum**, which deposits are or may become non-refundable **Deposits** toward the payment of the Purchase Price in order to guarantee the performance and prompt fulfillment of this Contract. If PURCHASERS are in default and SELLER is not in default of the terms hereof, then in that event, SELLER is hereby entitled to retain any non-refundable **Deposits** without the need for further authorization from the PURCHASERS.
- 4.2 At the time of payment of the **Final Deposit**, PURCHASERS shall deposit PURCHASERS' closing costs and fees with PURCHASERS' Closing Agent pursuant to the terms of Section 3.7 and Section 5.2 hereof.
- 4.3 For purposes of this Contract, the Reservation Deposit, if any, and any Deposits paid pursuant to the terms of the **ADDENDUM** will jointly be referred as the "**Deposits**".

Fifth. Payment of the Purchase Price and Closing Costs

- 5.1 Purchase Price. In connection with the transfer, closing and formalization of the **Trust**, SELLER will apply the **Deposits** to the Purchase Price, provided that the **Deposits** are paid in full and in a timely manner by PURCHASERS.
- 5.2 Closing Costs. At the time of paying the **Final Deposit**, the PURCHASERS are obligated and agree to pay the costs associated with the transfer and formalization of the **Trust**, which costs include without limitation the cost of recording the **Trust**, **Trustee's** fees, permit fees, notary fees, public registry fee, escrow fee, value added taxes, acquisition taxes, appraisal fees, costs of public certificates, prorated dues and assessments related to the **Casita** (including property taxes and maintenance fees), and such other taxes, costs and fees as are typical in a Mexican real property transaction (see **Exhibit "III"**). SELLER warrants that as of the Closing Date there will be no unpaid real estate taxes, maintenance fees, utility service bills or assessments levied against the **Casita** for periods accruing prior to Closing Date.
- 5.3 Condominium Assets. PURCHASERS understand and agree to be responsible, following the date of closing for PURCHASERS' share of any and all costs and expenses relating to the **Lot**, including taxes assessed against the **Lot**, and the **Casita to be constructed thereon** at the PURCHASERS' sole cost and expense, as well as PURCHASERS' share of common area expenses regarding the **Casitas Condominium** and the **Master Condominium**.
- 5.4 Additional Documents. On, before or after the Closing Date, PURCHASERS further agree to execute any additional documents and agreements identified in this Contract and/or any other documents needed or otherwise required by SELLER in order to effectuate the intent of this Contract.





Sixth. Representations and Understandings of PURCHASERS

Intending for DIAMANTE to rely thereon as a material consideration for DIAMANTE'S obligations and performance hereunder, PURCHASERS hereby represent, warrant and covenant as follows:

- 6.1 PURCHASERS represent and warrant that PURCHASERS were in Mexican territory when PURCHASERS were informed of the **Casitas Condominium** and/or the **Master Condominium** and when PURCHASERS' acquisition of the **Lot** was proposed to PURCHASERS, and that by PURCHASERS' execution hereof, and any communication made after the date of execution hereof will be deemed subsequent to such transaction.
- 6.2 PURCHASERS represent and warrant that PURCHASERS are purchasing the **Lot** for the personal use of PURCHASERS and PURCHASERS' family members and guests only, to hold for an indefinite time, and with the expectation that PURCHASERS may receive assistance from DIAMANTE in the rental of accommodations or in the resale of the **Casita constructed by PURCHASERS on the Lot**. DIAMANTE or its designees may at its option, retain the exclusive right to manage the rental of the accommodations or the resale of the **Casita constructed by PURCHASERS on the Lot** without any representation made by DIAMANTE as to its ability to rent or sell the **Casita**. PURCHASERS acknowledge that purchase and use of the **Casita** for commercial purposes is expressly prohibited, including but not limited to time share and/or club residential and/or fractional ownership, unless the **Lot** was purchased pursuant to such ownership at the time of Closing.
- 6.3 PURCHASERS represent and warrant that neither DIAMANTE nor any of its agents or employees has made any representations upon which PURCHASERS have relied concerning the investment value, the possibility or probability of profit or loss, or the tax consequences that may result from the purchase or ownership of the **Lot**. PURCHASERS represent and warrant that DIAMANTE has advised PURCHASERS to consult with legal and tax other advisors of PURCHASERS' own choosing, including without limitation Mexican legal counsel, regarding the legal and tax and implications of PURCHASERS' planned acquisition of the **Lot**, and that PURCHASERS are proceeding with this Contract either after having received the advice of such advisors or having chosen not to consult with such advisors in PURCHASERS' sole and absolute discretion.
- 6.4 PURCHASERS hereby covenant to defend and indemnify DIAMANTE against any and all claims of advisors, real estate brokers or salesmen arising from the acts of PURCHASERS or PURCHASERS' representatives, other than the claims of brokers or salesmen contracted by DIAMANTE. If PURCHASERS are comprised of two or more parties, they will be jointly and severally being obligated under this contract and all other agreement and documents referred to herein, including without limitation the **Casitas Rules and Regulations** and the **Master Condominium Rules and Regulations**. All references herein to PURCHASERS will include, jointly and severally, any and all persons executing this Contract as PURCHASERS, notwithstanding that such references to PURCHASERS are in the singular. In case PURCHASERS is composed of two or more parties, PURCHASERS hereby agree to designate





one such party to represent PURCHASERS' interest regarding the Casitas Condominium and the Master Condominium.

Seventh. Default

- 7.1 SELLER'S Default. In the event that SELLER defaults as a result of its failure to transfer the Lot to PURCHASERS pursuant to the provisions hereof, the Deposits paid hereunder are refundable and upon the request of PURCHASERS, with notice in writing to SELLER, the SELLER shall return said Deposits to PURCHASERS within fifteen (15) calendar days of the receipt of said notice from PURCHASERS.
- 7.2 PURCHASERS' Default. Upon PURCHASERS' default as the result of the breach of any material term or condition of this Contract, including but not limited to PURCHASERS' failure to pay in full and on time the Deposits to SELLER, SELLER may declare this Contract rescinded without the need of a judicial resolution or declaration and retain or collect a contractual penalty in the amount of the non-refundable deposits, as well as any amounts that may be due as fees and expenses as set forth in sections 7.1 and 7.2 hereof, with no liability attributable to SELLER or further commitment whatsoever by SELLER to PURCHASERS. For such effect, SELLER, may apply and/or offset the Deposit(s) as the case may be, and any other payment received by SELLER, if any, as partial or total payment for such penalty, and SELLER will be authorized to dispose of the Lot as deemed convenient to SELLER with no liability or further commitment whatsoever to PURCHASERS, except SELLER shall reimburse by PURCHASERS for PURCHASERS' costs and expenses of construction of a Casita on the Lot at the time of the sale by SELLER of the Lot and Casita, and the balance of Deposits, if any, shall be returned to the PURCHASERS.
- 7.3 Late Interest. If PURCHASERS fail to deliver any of the Deposits in full when due, they shall bear interest at a monthly rate of two percent (2%), starting from such due date and lasting so long as such payment remains outstanding and unpaid. However, SELLER, at its sole option, may exercise its cancellation rights as provided in section 7.1 above.



Eighth. DIAMANTE'S Right of First Refusal Before Resale.

From the closing Date and until 100% of the Master Condominium has been sold to unaffiliated third-party Purchaser, PURCHASERS are required to offer the Lot and any Casita constructed thereon by PURCHASERS to DIAMANTE upon the same terms and conditions as offered by or to a third party. This restriction shall not apply to transfers, assignment or sales to members of PURCHASERS' immediate family or other entities in which PURCHASERS have a controlling interest, such as affiliates or subsidiaries. Further, this restriction shall not apply to the mortgage, collateral grant, pledge, hypothecation, collateral assignment of the Casita for the purpose of securing purchase money financing and shall not apply to any subsequent transfer by foreclosure, by similar proceeding or by deed in lieu of same. PURCHASERS must notify DIAMANTE in writing no less than thirty (30) calendar days in advance of any proposed closing date, of PURCHASERS' intention to sell the Lot with the Casita and must include a copy of the fully executed contract or a copy of the contract to be executed by PURCHASERS. DIAMANTE shall notify PURCHASERS within ten (10) calendar days of receipt of such notice and written contract whether DIAMANTE wishes to exercise its right of first refusal. If DIAMANTE elects to exercise its right of first refusal, DIAMANTE'S purchase



of PURCHASERS' Casita shall be closed no later than thirty (30) calendar days from the date that DIAMANTE'S response is mailed to PURCHASERS, unless both parties agree to another closing date. If the sale of the Casita fails to close, through no fault of DIAMANTE, this restriction shall continue and be binding on PURCHASERS, pursuant to this Contract. If DIAMANTE fails to timely notify PURCHASERS of its election to exercise its right to purchase, PURCHASERS may consummate its sale with the third party. This provision shall survive closing and shall bind any of PURCHASERS' immediate family or related entities to whom title is transferred.

Ninth. Assignment

PURCHASERS may not assign or transfer any rights acquired by means of this Contract, without prior written authorization from SELLER, which SELLER may grant or withhold in its reasonable discretion. The foregoing notwithstanding, SELLER shall not withhold its consent if the proposed assignment is to a person related to PURCHASERS or to an entity in which PURCHASERS have a controlling interest. In addition, PURCHASERS must specify the name, nationality, domicile and occupation of the assignee, in order to enable SELLER to evaluate assignee's credit capacity. In the event that SELLER authorizes the assignment or transfer, PURCHASERS agree to pay any applicable taxes, including real estate acquisition taxes, and any other federal, state or municipal fees as the same may be incurred and the assignee must agree in writing to assume each and all of the obligations contracted to by PURCHASERS in this Contract.

Tenth. Domiciles

The parties establish as their domiciles for any notification relating to this Contract as the following:

DIAMANTE (SELLER):

Diamante Cabo San Lucas, S. de RL. De C.V.
Boulevard Diamante Sin Numero,
Col. Los Cangrejos 1, C.P. 23473,
Cabo San Lucas, Baja California Sur, C.P., Mexico
kj@legacyproperties.com cc bn@legacyproperties.com

PURCHASERS:

Gregory Alan Carrafiello
Ana Alejandra Gutierrez Flores
Blvd. Marina S/N Plaza Nautica Condo 107
Col. Centro
Cabo San Lucas B.C.S. 23450
Mexico
greg.carrafiello@gmail.com

Eleventh. Notifications

Unless otherwise stated herein, all notices and other communications required or permitted under this Contract will be in writing and will be deemed to have been duly given (i) when delivered personally, or (ii) when sent, if by email transmitted on a business day prior to 5:00 p.m. local time at the place of



receipt, or on the following business day if sent after 5:00 p.m. local time at the place of receipt, with written confirmation of transmittal, or (iii) two days following delivery to a courier service if sent by next day delivery via a recognized international courier service, such as DHL. All such notices or communications will be addressed to the parties at their addresses set forth above, or at such other address as may be specified by notice given in accordance with the provisions of this Clause.

Twelfth. Validate Consent

The parties declare that there exists no deceit, mistake, or any other vice in this Contract that might invalidate same and that the Purchase Price assigned to the Casita is fair and legitimate and therefore, the parties waive any annulment action together with the respective term to exercise same.

Thirteenth. Entire Contract

This Contract, including its exhibits and any Addendum attached hereto, contains the entire understanding between the parties with respect to their desired obligations, and consequently, supersedes any other previous contract, oral understandings or written agreement. Any exhibits or addendum attached hereto are incorporated in full. This present Contract may only be amended by means of a written document signed by both parties, and without the foregoing, any modification will have no effect.

Fourteenth. Laws, Courts and Mediation.

For all matters relating to the intent, interpretation and compliance of this Contract, the parties expressly submit themselves to the laws in force and to the jurisdiction of the courts of San Jose del Cabo, Municipality of Los Cabos, Baja California Sur, Mexico, waiving hereby any other jurisdiction that could correspond to them due to their present or future domicile, or for any other reason.

Before going to any judicial authority in accordance with this section, the Parties agree that if there are any differences between them according the interpretation, fulfillment and execution of this Agreement, they will start, within thirty (30) calendar days following the disagreements, a Mediation Procedure in which a legal representative of **SELLER** and the **PURCHASERS** will jointly participate. In accordance with this procedure the following conditions will have to be observed:

- a. A legal representative of **SELLER** and the **PURCHASERS** will have ten (10) calendar days to settle and resolve the disagreement from the date set for the initial meeting between the parties.
- b. In case the Parties do not enter into an agreement settling the difference or differences within the term before established, the Parties will be able to extend, the term only once, for ten (10) more calendar days.

If the difference or dispute is not settled between the parties in said period of time, they will expressly submit themselves to the laws in force and to the jurisdiction of the courts of San Jose del Cabo, as stated herein in paragraph one (1) of this recital.

Initials: aa68 _____



Fifteenth. Language

The parties to this Contract expressly acknowledge that this Contract is executed simultaneously with Spanish and English versions; nevertheless, in case of any doubt, contradiction or controversy, the Spanish version will prevail.

Sixteenth. Counterpart Execution

This Contract may be executed in two or more counterparts, each of which shall be deemed an original and all of which when taken together will constitute one and the same instrument. Copies of signatures of any party to this Contract delivered by facsimile or electronically shall be considered originals for all purposes hereunder.

Seventeenth. Confidentiality

Any and all proprietary information disclosed to either party by the other party in connection with the negotiation, execution or performance of this Agreement or the management, operation or dissolution of all information shall be deemed and treated by DIAMANTE and the PURCHASERS as confidential and shall not be disclosed to any third party without the prior written consent of the non-disclosing party; provided, however, that the foregoing restriction shall not apply to the extent, but only to the extent, that any information (a) becomes generally available to the public through no fault of the receiving party; (b) is or has been disclosed to the receiving party, directly or indirectly, by a person, firm or entity having no obligation to the disclosing party; or (c) is required to be disclosed under any applicable law, rule, regulation or governmental order.



Eighteenth. Freely Negotiated

This Contract is signed on the dates shown below by PURCHASERS and by SELLER in Los Cabos, Baja California Sur, Mexico, and both parties hereby represent that each and all of the terms and conditions of this Contract were freely negotiated and agreed, through the mutual consent of said parties, without there having existed any unilateral imposition of any of the provisions set forth in this Contract by any of the parties.

[See next page for signatures]

Initials: aagx _____



The parties, aware of the extent, content and legal force of this Contract, and its attached ADDENDUM and Exhibits, sign same in three copies, on September 6, 2019.

DIAMANTE (SELLER)

Diamante Cabo San Lucas, S. de R.L. de C.V.



By: KENNETH A. JOWDY
or TAFY JOWDY
SELLER'S Legal Representative

PURCHASERS



By: Gregory Alan Carraffello



By: Ana Alejandra Gutierrez Flores
PURCHASERS' Legal Representatives

WITNESS

Name:

WITNESS



Name:

Exhibit "II"



SUPERFICIE = 960.134 m²

19 of 23

Date: September 2019



Bob

Approval by Client

20 of 23